

### **REMARKS**

Claims 1-55 are present in this application. Claims 3, 12-19, 22, and 30-37 have been withdrawn. Claims 1 and 20 are independent.

### **Allowable Subject Matter**

Claims 5-9, 24-27, 43, and 51 have been objected to, but would be allowable if rewritten in independent form.

### **Rejoinder**

As demonstrated above, independent claims 1 and 20 are generic to all species including the non-elected species. Therefore, the withdrawn claims 3, 12-19, 22, 30-37 are subject to rejoinder with and when the generic claims are allowed.

### **Claim Objection**

Claims 41 and 44 have been objected to due to for minor informalities. Accordingly, Applicants have amended claims 41 and 44. Applicants request that the objection be withdrawn.

### **Claim Rejection – 35 U.S.C. § 112, First Paragraph**

Claims 40-42 and 48-50 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Accordingly, Applicants have

amended claims 40, 41, 42, 48, 49, and 50. Applicants request that the rejection be reconsidered and withdrawn.

**Claim Rejection – 35 U.S.C. § 102(e); Fukushima**

Claims 1, 10, 20, 28, 38, 46, 54, and 55 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,253,023 (Fukushima). Applicants respectfully traverse this rejection.

Claim 1 is directed to embodiments for a digital camera with an automatic image transmission function. The embodiments include a transmission section (e.g., transmission section 80 in Fig. 4), a transmission control unit (e.g., transmission control unit 150 in Fig. 4) judging whether a transmission allowance condition of completion of photography is satisfied (e.g., step S102 in Fig. 8).

The embodiments include a function that if the transmission control unit judges that the completion of photography condition is satisfied (e.g., “Yes” after decision step S102), then said transmission control unit judges whether there is at least one transmission allowance condition other than the completion of photography to be checked (e.g., decision step S103, “are there any other transmission allowance conditions?”).

The embodiments include a function that if the transmission control unit judges that there is no transmission allowance condition other than the completion of photography, then the transmission section transmits the photo images (e.g., “No” after decision step S103, followed by steps S108 to S112).

The Final Office Action relies on the embodiment shown in Figures 15-18 of Fukushima, and states that,

“The camera operates to capture an image (S2005) and after the capture of the image is complete (col. 32, lines 5, 6) determination is made whether or not to transmit an image. A number of transmission conditions are checked before the image transmission is carried out. For instance, the transmission means is detected [S2004], the number of transmission means is detected [S2006], and the optimal transmission means is detected [S2009]. All of these conditions are interpreted to be transmission allowance conditions.” (Office Action at page 5, element references entered)

According to the specification in Fukushima, detection of the transmission means (shown in Fig. 17) involves a determination as to what types of transmission means are connected to each connector of the still camera (col. 33, lines 1-45). At step S2006, it is determined that the number of connected transmission means is two or more. A step of detecting transmission capability S2008 (Fig. 18) involves a determination as to which transmission means is superior in transmission capability (data transmission speed), for the case that there are two or more connected transmission means (col. 33, line 46, to col. 34, line 3). In a step S2008, the optimum transmission means, i.e., one having highest transmission speed, is selected on the basis of the detection result.

Unlike Fukushima, the present transmission control unit makes a preliminary judgement as to whether there is at least one transmission allowance condition other than completion of photography to be checked (e.g., step S103). As can be seen in Figure 16 of Fukushima performs

a function of detecting transmission means (step S2004), and determining the number of transmission means (step S2006), in every case. In other words, Fukushima does not include a judgment as to whether these detecting and determining steps should take place.

Furthermore, unlike Fukushima embodiments of the present invention judge whether there are transmission “allowance” conditions to be checked. In other words, the function of judging whether there is at least one transmission allowance condition to be checked is performed for a given transmission section 80, which has a predetermined configuration and predetermined transmission settings. In the present invention, given the transmission section 80 and its predetermined configuration and predetermined transmission settings, a decision is made as to whether information satisfies transmission allowance conditions, e.g., conditions that may impact cost of transmission. In order to clarify this feature, independent claims 1 and 20 have been amended to recite that the transmission section has a predetermined configuration and predetermined transmission settings, and thereby that judgment of a transmission allowance condition to be checked assumes that the transmission settings have been predetermined.

Fukushima, on the other hand, is directed to selection of a transmission means having the highest transmission speed. Thus, for at least these reasons, Applicants submit that the claims distinguish over Fukushima. Applicants request that the rejection be reconsidered and withdrawn.

### **Claim Rejections – 35 U.S.C. § 103(a)**

Claims 2 and 21 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Fukushima in view of Tamura et al. (2004/0169730); claims 4 and 23 stand rejected as allegedly being unpatentable over Fukushima in view of Iizuka (JP 09-288684); claims 11 and 29 stand rejected as allegedly being unpatentable over Fukushima in view of Safai (U.S. Patent 6, 715,003); claims 39 and 47 stand rejected as allegedly being unpatentable over Fukushima in view of Iizuka and further in view of Shibata (JP 56152368); claims 44, 45, 52, and 53 stand rejected as allegedly unpatentable over Fukushima. Applicants respectfully traverse these rejections.

These rejected claims all depend from independent claims 1 or 20, directly or indirectly. It has been shown above that claims 1 and 20 are distinguishable over Fukushima. None of Tamura et al., Iizuka, Safai, or Shibata have been relied upon, nor can they be relied upon, to correct for at least above noted deficiencies of Fukushima. Therefore, independent claims 1 and 20 are distinguishable over the cited references.

For at least due to the dependency thereon, these dependent claims are also distinguishable over the combination of the cited references. Applicants respectfully request that the rejections be reconsidered and withdrawn.

### **Conclusion**

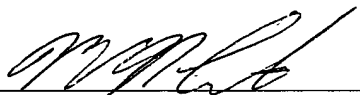
In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert W. Downs (Reg. No. 48,222) at the telephone number of (703) 205-8000, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

RWD  
By   
Michael R. Cammarata  
Registration No.: 39,491  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicants